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SUBJECT: SWAZILAND'S STALLED INTER-COUNTRY ADOPTIONS

REF: MBABANE 0052

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1. (SBU) On February 8, Ambassador Irving and ConOff Murphy met with Deputy Prime Minister (DPM) Themba Masuku, Principal Secretary (PS) Khangeziwe Mabuza, Director of Social Work (DSW) Eric Maziya, Senior Social Worker Vierah Hlatshwayo, and the three Prospective Adoptive Parents (PAPs) to discuss the stalled inter-country adoption cases detailed in reftel. Despite the fact that the three families came to Swaziland three months ago to finalize their adoptions, the adoptable status of the children still is in question and the cases are at a standstill. DPM Masuku requested to meet personally with the families and reiterated his regret and embarrassment for the stalled cases. He vowed to assign top priority to the resolution of each case, based on respective details and legal considerations. END SUMMARY

THE STALLED CASES

2. (U) Melanie Fullingim arrived in Swaziland on November 19, 2009 to adopt three older orphaned siblings who had been living in the Manzini Halfway House for the past two years. At that time, Mrs. Fullingim was informed that the children were abandoned by their abusive father and their mother was unknown, so there was no question regarding their orphan status. The father even provided written consent to turn the children over to DSW. In Monday's meeting, the DPM indicated that the father recently claimed he did not understand he was consenting to inter-country adoption. Rather, the biological father claimed he intended to turn them over to be wards of the state, which would feed, clothe, and educate them and allow him biennial paternal visits. The father further objected to the children's surname being changed from Dlamini under any circumstances. Reportedly, the birth mother has resurfaced after years of unknown whereabouts, and claims to have an interest in the children, although has expressed no interest in taking custody and long-term care. Until the facts of the case, particularly the mother's intentions, were fully known the DPM explained his hands were tied and the adoption case could not proceed.

3. (U) John Messerly arrived in Swaziland per [EMI2] on November 23, 2009 to adopt two unrelated orphaned children who had been living at the ABC Ministries for over a year. The court case for the daughter was completed a week ago, but the son's case was declined [EMI3] by the High Court pending written consent from either birth parent, who are missing in South Africa. Before inviting Mr. Messerly to Swaziland, DSW conducted an exhaustive search, including the required newspaper and radio ads, for any relative to claim the children, and no one came forward. It is unclear why the court is again questioning the orphan status of the child [EMI4]. In the time that Mr. Messerly's case has been languishing in the courts, a

paternal grand-aunt has come forward to claim an interest in seeing the child, although has expressed no interest in taking custody and long-term care. The DPM congratulated Mr. Messerly on the successful adoption of his daughter, and promised to see through the case of the little boy to closure.

14. (U) Dr. Nilou Ataie arrived in Swaziland on January 16, 2010 to adopt an infant child whose birth mother specifically requested that her unborn child be placed immediately after birth with a PAP rather than be put in an institution. Although DSW approved this arrangement in advance of Dr. Ataie's arrival in Swaziland, the department reneged on the agreement and placed the newborn in Manzini Halfway House, which is not equipped to care for infants. Dr. Ataie has received no word as to when she will be granted custody of the child, although she has been funding all of the baby's material needs. As it turns out, the consenting birth mother is South African and the father is unknown but assumed to be South African, so the child has no right to Swazi citizenship under Swazi law. This means DSW cannot process the child's adoption without a legal opinion, and may have to deport the infant and transfer him custody of the child to South Africa's already overburdened social welfare system.

DECISION OF THE DEPUTY PRIME MINISTER

15. (U) The DPM spoke with Embassy officials and the PAPs for over two hours, conveying genuine concern for the financial hardship and emotional turmoil being endured by the U.S. families. He indicated that his subordinates did not properly inform him of the cases until several weeks into the process, and it only now came to his attention that the orphans' adoptive status was not exhaustively investigated nor all remote eventualities considered. Masuku said he needed to personally and carefully review each pending case and consult with higher authorities, such as the Attorney General in the Swazi citizenship case, to determine a way forward.

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16. (SBU) When given the opportunity to speak, the PAPs conveyed a respect for the Swazi system and an understanding that children should be with responsible biological family members, when possible. They diplomatically resigned themselves to the decision of DSW and the High Courts, although all underscored the permanent emotional scars this systematic oversight, which allowed them to bond as a family for over two months, would have on the Swazi orphans and their American families.

17. (SBU) In conclusion, DPM Masuku committed to resolving the cases on a priority basis. He maintained that the internal working of DSW was flawed and needed to be improved before they could accept any additional inter-country adoption cases.

IRVING